



Rep. Kelly Burke

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1 AMENDMENT TO HOUSE BILL 3480

2 AMENDMENT NO. _____. Amend House Bill 3480 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Mandates Act is amended by changing
5 Sections 4, 7, and 8 and by adding Section 4.5 as follows:

6 (30 ILCS 805/4) (from Ch. 85, par. 2204)

7 Sec. 4. Collection and maintenance of information
8 concerning state mandates.

9 (a) The Department of Commerce and Economic Opportunity,
10 hereafter referred to as the Department, shall be responsible
11 for:

12 (1) Collecting and maintaining information on State
13 mandates, including information required for effective
14 implementation of the provisions of this Act.

15 (2) Reviewing local government applications for
16 reimbursement submitted under this Act in cases in which

1 the General Assembly has appropriated funds to reimburse
2 local governments for costs associated with the
3 implementation of a State mandate. In cases in which there
4 is no appropriation for reimbursement, upon a request for
5 determination of a mandate by a unit of local government,
6 or more than one unit of local government filing a single
7 request, other than a school district or a community
8 college district, the Department shall determine whether a
9 Public Act constitutes a mandate and, if so, the Statewide
10 cost of implementation.

11 (3) Hearing complaints or suggestions from local
12 governments and other affected organizations as to
13 existing or proposed State mandates.

14 (4) Reporting each year to the Governor and the General
15 Assembly regarding the administration of provisions of
16 this Act and changes proposed to this Act.

17 The Legislative Research Unit shall conduct public
18 hearings as needed to review the information collected and the
19 recommendations made by the Department under this subsection
20 (a). The Department shall cooperate fully with the Legislative
21 Research Unit, providing any information, supporting
22 documentation and other assistance required by the Legislative
23 Research Unit to facilitate the conduct of the hearing.

24 (b) Within 2 years following the effective date of this
25 Act, the Department shall collect and tabulate relevant
26 information as to the nature and scope of each existing State

1 mandate, including but not necessarily limited to (i) identity
2 of type of local government and local government agency or
3 official to whom the mandate is directed; (ii) whether or not
4 an identifiable local direct cost is necessitated by the
5 mandate and the estimated annual amount; (iii) extent of State
6 financial participation, if any, in meeting identifiable
7 costs; (iv) State agency, if any, charged with supervising the
8 implementation of the mandate; and (v) a brief description of
9 the mandate and a citation of its origin in statute or
10 regulation.

11 (c) The resulting information from subsection (b) shall be
12 published in a catalog available to members of the General
13 Assembly, State and local officials, and interested citizens.
14 As new mandates are enacted they shall be added to the catalog,
15 and each January 31 the Department shall list each new mandate
16 enacted at the preceding session of the General Assembly, and
17 the estimated additional identifiable direct costs, if any
18 imposed upon local governments. A revised version of the
19 catalog shall be published every 2 years beginning with the
20 publication date of the first catalog. The resulting
21 information from Section 2-3.104 of the School Code shall be
22 added to the catalog published every 2 years by the Department,
23 beginning with the publication of the 2016 State Mandates
24 Catalog.

25 (d) Failure of the General Assembly to appropriate adequate
26 funds for reimbursement as required by this Act shall not

1 relieve the Department of Commerce and Economic Opportunity
2 from its obligations under this Section.

3 (Source: P.A. 93-632, eff. 2-1-04.)

4 (30 ILCS 805/4.5 new)

5 Sec. 4.5. Collection and maintenance of information
6 concerning State mandates for schools.

7 (a) The State Board of Education, shall be responsible for
8 providing an annual report, as provided for in Section 2-3.104
9 of the School Code.

10 (b) Failure of the General Assembly to appropriate adequate
11 funds for reimbursement as required by this Act shall not
12 relieve the State Board of Education from its obligations under
13 this Section.

14 (30 ILCS 805/7) (from Ch. 85, par. 2207)

15 Sec. 7. Review of Existing Mandates. (a) Concurrently with
16 or within 3 months subsequent to the publication of a catalog
17 of State mandates as prescribed in subsection (b) of Section 4
18 and in Section 4.5, the Department and the State Board of
19 Education shall submit to the Governor and the General Assembly
20 a review and report on mandates enacted prior to the effective
21 date of this Act and remaining in effect at the time of
22 submittal of the report. The State Board of Education shall
23 submit the review of existing mandates concurrently with the
24 publication referred to in Section 2-3.104 of the School Code.

1 (b) The report shall include for each mandate the
2 following: (1) The factual information specified in subsection
3 (b) of Section 4 for the catalog; (2) extent to which the
4 enactment of the mandate was requested, supported, encouraged
5 or opposed by local governments or their respective
6 organization; (3) whether the mandate continues to meet a
7 Statewide policy objective or has achieved the initial policy
8 intent in whole or in part; (4) amendments if any are required
9 to make the mandate more effective; (5) whether the mandate
10 should be retained or rescinded; (6) whether State financial
11 participation in helping meet the identifiable increased local
12 costs arising from the mandate should be initiated, and if so,
13 recommended ratios and phasing-in schedules; and (7) any other
14 information or recommendations which the Department considers
15 pertinent.

16 (c) The appropriate committee of each house of the General
17 Assembly shall review the report and shall initiate such
18 legislation or other action as it deems necessary.

19 The requirement for reporting to the General Assembly shall
20 be satisfied by filing copies of the report with the Speaker,
21 the Minority Leader and the Clerk of the House of
22 Representatives and the President, the Minority Leader, the
23 Secretary of the Senate, the members of the committees required
24 to review the report under subsection (c) and the Legislative
25 Research Unit, as required by Section 3.1 of "An Act to revise
26 the law in relation to the General Assembly", approved February

1 25, 1874, as amended, and filing such additional copies with
2 the State Government Report Distribution Center for the General
3 Assembly as is required under paragraph (t) of Section 7 of the
4 State Library Act.

5 (Source: P.A. 84-1438.)

6 (30 ILCS 805/8) (from Ch. 85, par. 2208)

7 Sec. 8. Exclusions, reimbursement application, review,
8 appeals, and adjudication.

9 (a) Exclusions: Any of the following circumstances
10 inherent to, or associated with, a mandate shall exclude the
11 State from reimbursement liability under this Act. If the
12 mandate (1) accommodates a request from local governments or
13 organizations thereof; (2) imposes additional duties of a
14 nature which can be carried out by existing staff and
15 procedures at no appreciable net cost increase; (3) creates
16 additional costs but also provides offsetting savings
17 resulting in no aggregate increase in net costs; (4) imposes a
18 cost that is wholly or largely recovered from Federal, State or
19 other external financial aid; (5) imposes additional annual net
20 costs of less than \$1,000 for each of the several local
21 governments affected or less than \$50,000, in the aggregate,
22 for all local governments affected.

23 The failure of the General Assembly to make necessary
24 appropriations shall relieve the local government of the
25 obligation to implement any service mandates, tax exemption

1 mandates, and personnel mandates, as specified in Section 6,
2 subsections (b), (c), (d) and (e), unless the exclusion
3 provided for in this Section are explicitly stated in the Act
4 establishing the mandate. In the event that funding is not
5 provided for a State-mandated program by the General Assembly,
6 the local government may implement or continue the program upon
7 approval of its governing body. If the local government
8 approves the program and funding is subsequently provided, the
9 State shall reimburse the local governments only for costs
10 incurred subsequent to the funding.

11 (b) Reimbursement Estimation and Appropriation Procedure.

12 (1) When a bill is introduced in the General Assembly,
13 the Legislative Reference Bureau, hereafter referred to as
14 the Bureau, shall determine whether such bill may require
15 reimbursement to local governments pursuant to this Act.
16 The Bureau shall make such determination known in the
17 Legislative Synopsis and Digest.

18 In making the determination required by this
19 subsection (b) the Bureau shall disregard any provision in
20 a bill which would make inoperative the reimbursement
21 requirements of Section 6 above, including an express
22 exclusion of the applicability of this Act, and shall make
23 the determination irrespective of any such provision.

24 (2) Any bill or amended bill which creates or expands a
25 State mandate shall be subject to the provisions of "An Act
26 requiring fiscal notes in relation to certain bills",

1 approved June 4, 1965, as amended. The fiscal notes for
2 such bills or amended bills shall include estimates of the
3 costs to local government and the costs of any
4 reimbursement required under this Act. In the case of bills
5 having a potential fiscal impact on units of local
6 government, the fiscal note shall be prepared by the
7 Department. In the case of bills having a potential fiscal
8 impact on school districts, the fiscal note shall be
9 prepared by the State Superintendent of Education,
10 including estimated implementation cost data and analysis
11 generated by school districts, if available and
12 applicable. In the case of bills having a potential fiscal
13 impact on community college districts, the fiscal note
14 shall be prepared by the Illinois Community College Board.
15 Such fiscal note shall accompany the bill that requires
16 State reimbursement and shall be prepared prior to any
17 final action on such a bill by the assigned committee.
18 However, if a fiscal note is not filed by the appropriate
19 agency within 30 days of introduction of a bill, the bill
20 can be heard in committee and advanced to the order of
21 second reading. The bill shall then remain on second
22 reading until a fiscal note is filed. A bill discharged
23 from committee shall also remain on second reading until a
24 fiscal note is provided by the appropriate agency.

25 (3) The estimate required by paragraph (2) above, shall
26 include the amount estimated to be required during the

1 first fiscal year of a bill's operation in order to
2 reimburse local governments pursuant to Section 6, for
3 costs mandated by such bill. In the event that the
4 effective date of such a bill is not the first day of the
5 fiscal year the estimate shall also include the amount
6 estimated to be required for reimbursement for the next
7 following full fiscal year.

8 (4) For the initial fiscal year, reimbursement funds
9 shall be provided as follows: (i) any statute mandating
10 such costs shall have a companion appropriation bill, and
11 (ii) any executive order mandating such costs shall be
12 accompanied by a bill to appropriate the funds therefor,
13 or, alternatively an appropriation for such funds shall be
14 included in the executive budget for the next following
15 fiscal year.

16 In subsequent fiscal years appropriations for such
17 costs shall be included in the Governor's budget or
18 supplemental appropriation bills.

19 (c) Reimbursement Application and Disbursement Procedure.

20 (1) For the initial fiscal year during which
21 reimbursement is authorized, each local government, or
22 more than one local government wishing to join in filing a
23 single claim, believing itself to be entitled to
24 reimbursement under this Act shall submit to the
25 Department, State Superintendent of Education or Illinois
26 Community College Board within 60 days of the effective

1 date of the mandate a claim for reimbursement accompanied
2 by its estimate of the increased costs required by the
3 mandate for the balance of the fiscal year. The Department,
4 State Superintendent of Education or Illinois Community
5 College Board shall review such claim and estimate, shall
6 apportion the claim into 3 equal installments and shall
7 direct the Comptroller to pay the installments at equal
8 intervals throughout the remainder of the fiscal year from
9 the funds appropriated for such purposes, provided that the
10 Department, State Superintendent of Education or Illinois
11 Community College Board may (i) audit the records of any
12 local government to verify the actual amount of the
13 mandated cost, and (ii) reduce any claim determined to be
14 excessive or unreasonable.

15 (2) For the subsequent fiscal years, local governments
16 shall submit claims as specified above on or before October
17 1 of each year. The Department, State Superintendent of
18 Education or Illinois Community College Board shall
19 apportion the claims into 3 equal installments and shall
20 direct the Comptroller to pay the first installment upon
21 approval of the claims, with subsequent installments to
22 follow on January 1 and March 1, such claims to be paid
23 from funds appropriated therefor, provided that the
24 Department, State Superintendent of Education or Illinois
25 Community College Board (i) may audit the records of any
26 local governments to verify the actual amount of the

1 mandated cost, (ii) may reduce any claim, determined to be
2 excessive or unreasonable, and (iii) shall adjust the
3 payment to correct for any underpayments or overpayments
4 which occurred in the previous fiscal year.

5 (3) Any funds received by a local government pursuant
6 to this Act may be used for any public purpose.

7 If the funds appropriated for reimbursement of the
8 costs of local government resulting from the creation or
9 expansion of a State mandate are less than the total of the
10 approved claims, the amount appropriated shall be prorated
11 among the local governments having approved claims.

12 (d) Appeals and Adjudication.

13 (1) Local governments may appeal determinations made
14 by State agencies acting pursuant to subsection (c) above.
15 The appeal must be submitted to the State Mandates Board of
16 Review created by Section 9.1 of this Act within 60 days
17 following the date of receipt of the determination being
18 appealed. The appeal must include evidence as to the extent
19 to which the mandate has been carried out in an effective
20 manner and executed without recourse to standards of
21 staffing or expenditure higher than specified in the
22 mandatory statute, if such standards are specified in the
23 statute. The State Mandates Board of Review, after
24 reviewing the evidence submitted to it, may increase or
25 reduce the amount of a reimbursement claim. The decision of
26 the State Mandates Board of Review shall be final subject

1 to judicial review. However, if sufficient funds have not
2 been appropriated, the Department shall notify the General
3 Assembly of such cost, and appropriations for such costs
4 shall be included in a supplemental appropriation bill.

5 (2) A local government may also appeal directly to the
6 State Mandates Board of Review in those situations in which
7 the Department of Commerce and Economic Opportunity or
8 State Board of Education does not act upon the local
9 government's application for reimbursement or request for
10 mandate determination submitted under this Act. The appeal
11 must include evidence that the application for
12 reimbursement or request for mandate determination was
13 properly filed and should have been reviewed by the
14 Department or State Board of Education.

15 An appeal may be made to the Board if the Department
16 does not respond to a local government's application for
17 reimbursement or request for mandate determination within
18 120 days after filing the application or request. In no
19 case, however, may an appeal be brought more than one year
20 after the application or request is filed with the
21 Department.

22 (Source: P.A. 94-793, eff. 5-19-06.)

23 Section 10. The School Code is amended by changing Section
24 2-3.104 as follows:

1 (105 ILCS 5/2-3.104) (from Ch. 122, par. 2-3.104)

2 Sec. 2-3.104. State mandate reports. The State Board of
3 Education shall prepare an annual report listing all State
4 mandates applicable to the common schools during the school
5 year covered by the report, excluding only those mandates that
6 relate to school elections. The annual report shall set forth
7 for each listed mandate:

8 (1) the date or approximate date that the mandate
9 became effective;

10 (2) ~~and~~ the cost of implementing the ~~that~~ mandate
11 during the school year covered by the report; provided that
12 if the mandate has not been in effect for the entire school
13 year covered by the report, the estimated annual cost of
14 implementing that mandate shall be set forth in that
15 report;

16 (3) whether or not an identifiable local direct cost is
17 necessitated by the mandate and the estimated annual
18 amount;

19 (4) a brief description of the mandate and a citation
20 of its origin in statute or rule;

21 (5) the extent of State or federal financial
22 participation, if any, in meeting identifiable costs; and

23 (6) the State agency, if any, charged with supervising
24 the implementation of the mandate.

25 If ~~and provided that~~ if the mandate exists because of a
26 federal law, rule or regulation, the report shall note that

1 fact.

2 The State Board of Education shall highlight on each annual
3 report each mandate listed thereon that first became effective
4 and applicable to the common schools during the school year
5 covered by the current annual report. If applicable, the report
6 shall identify the type of school district or cooperative or
7 other type of school as defined under this Code affected by or
8 to which the mandate is directed.

9 Each annual report prepared by the State Board of
10 Education shall be presented at a public meeting of the State
11 Board, allowing for public comment, posted on the State Board's
12 Internet website, and filed by the State Board of Education
13 with the General Assembly on or before March 1 of the calendar
14 year, ~~beginning with calendar year 1992,~~ and shall cover the
15 school year ending during the calendar year immediately
16 preceding the calendar year in which the annual report is
17 required to be filed, reporting, as well, each year to the
18 Governor and the General Assembly regarding the administration
19 of provisions of this Section and changes proposed to this
20 Section. The State Board shall make available, upon request of
21 the Department of Commerce and Economic Opportunity, a copy of
22 the annual State Mandates Report for publication in the
23 Department's State Mandates Catalog.

24 The State Board of Education shall review school district
25 applications for reimbursement submitted pursuant to Section 8
26 of the State Mandates Act in cases in which the General

1 Assembly has appropriated funds to reimburse school districts
2 for costs associated with the implementation of a State
3 mandate. In cases in which there is no appropriation for
4 reimbursement, upon a request for determination of a mandate by
5 a school district, or more than one school district filing a
6 single request, the State Board shall, in conjunction with an
7 organization established under Article 23 of this Code,
8 determine whether a Public Act constitutes a mandate and, if
9 so, the statewide cost of implementation.

10 (Source: P.A. 87-632; 87-895.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."